

RECEIVED  
CENTRAL FAX CENTER  
JUL 21<sup>P.2</sup> 2004  
**OFFICIAL**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

LANGOUET et al.

Appl. No.: 10/042,332

Filing Date: January 11, 2002

Title: Modular Test Adapter For Rapid Action  
Engagement

Art Unit: 2829

Examiner: Russell M. Kobert

Atty. Docket: 3075.004

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Applicants respectfully submit this Response to the Restriction Requirement dated July 14, 2004, which is the second restriction requirement issued by the Examiner in this application. Applicants respectfully traverse the Examiner's restriction requirement.

First, Applicants disagree with the Examiner's characterization that Applicants' amendment filed April 20, 2004 has necessitated new grounds for restriction. With respect to Groups I and II, the Examiner focuses on the tongue and groove structure of the claims in Group I, the gasket of Group II, and the flat surface of Group III. In Applicants' April 20, 2004 amendment, however, Applicants did not amend the tongue and groove structure of the claims in Group I, and in the claims in Group II, merely incorporated the gasket element of prior dependent claim 15 into independent claim 14. The only thing Applicants did in this regard was note that the Examiner failed to state any basis for

rejection claim 15 in the Examiner's January 20, 2004 Office Action. Applicants' act of pointing out the Examiner's failure to state a proper grounds of rejection in the prior Office Action does not constitute an amendment necessitating a new grounds of restriction.

Second, the Examiner's distinction between the claims in Group's II and III is not understood and is not explained in the Restriction Requirement. The first paragraph under section 3 of the Restriction Requirement recites an alleged distinction between the tongue and groove structure of claims 1 and 13 and the gasket structure recited in claim 14. The claims of Group III, however, do not recite any tongue and groove structure and thus are not distinct from the claims of Group II on that basis. The second paragraph under section 3 asserts a distinction between Groups III and I again on the basis of the tongue and groove structure recited in claims 1 and 13. This second paragraph, however, draws no distinction between Groups II and III. Accordingly, the Examiner has failed to state any distinction between Groups II and III and therefore should consider the claims in Groups II and III together in this application.

Third, MPEP 803.01 very clearly states that there are two criteria for a proper requirement for restriction: (A) the inventions must be independent or distinct as claimed; and (B) there must be a serious burden on the examiner if restriction is required. The Examiner asserts that the tongue and groove structure of the claims in Group I and the gasket of the claims in Group II "have acquired a separate status in the art because of their recognized divergent subject matter," but the Examiner provides no explanation of such assertion nor why consideration of these claims would be any burden to the Examiner when the Examiner already did, or should have, considered these claim elements in the

January 4, 2004 Office Action. Since the claim elements at issue already have been examined, they cannot possibly create a serious burden on the Examiner.

Pursuant to 37 C.F.R. § 1.143, however, Applicants provisionally elect Group II (Claims 1-4, 13 and 21), or, in view of the Examiner's failure to draw any distinction between Groups II and III, Applicants provisionally elect Groups II and III.

The Commissioner is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 50-2837.

Respectfully submitted,

DeWitt Roggin PLLC

By: 

Timothy R. DeWitt  
Reg. No. 35,857

Date: July 21, 2004

DeWitt Roggin PLLC  
1455 Pennsylvania Ave., N.W.  
Washington, D.C. 20004  
Tel: 410-212-2539  
Fax: 410-295-5096

OFFICIAL

PTO/SB/21 (08-03)

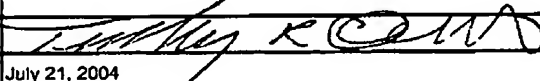
Approved for use through 08/30/2003. OMB 0651-0031


U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b>  <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/042,332	
	Filing Date	January 11, 2002	
	First Named Inventor	LANGOUET, Jean Luc	
	Art Unit	2829	
	Examiner Name	KOBERT, Russell	
Total Number of Pages in This Submission	4	Attorney Docket Number	3075.004

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Reply to July 14, 2004 Restriction Requirement
Remarks _____		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Timothy R. DeWitt
Signature	
Date	July 21, 2004

CERTIFICATE OF TRANSMISSION/MAILING	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.	
Typed or printed name	Timothy R. DeWitt
Signature	
Date	July 21, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.